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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43149
Plaintiff-Respondent,)	
)	Twin Falls County Case No.
v.)	CR-2014-6277
)	
RANDY N. SLAYMAKER,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Should Slaymaker's appeal be dismissed because he waived his right to appeal?

Slaymaker's Appeal Should Be Dismissed Because He Waived The Right To Appeal
His Sentence

Pursuant to a plea agreement, Slaymaker pled guilty to one count of grand theft by deception and five counts of issuing checks without funds, and the district court imposed an aggregate unified sentence of 20 years, with four years fixed. (R., pp.96-

107, 152-61.¹) As part of the plea agreement, Slaymaker waived his right to appeal and waived his right to file a Rule 35 motion for sentence reduction. (R., p.107; 12/22/14 Tr., p.4, Ls.18-22, p.8, Ls.1-8.) Slaymaker filed a notice of appeal timely from the judgment of conviction. (R., pp.171-75.)

Slaymaker asserts his sentence is excessive in light of “his substance abuse and mental health issues, willingness to pay restitution, family support, and acceptance of responsibility and remorse.” (Appellant’s brief, p.5.) Slaymaker’s appeal should be dismissed because he specifically waived his right to appeal his sentence when he entered into the plea agreement.

The waiver of the right to appeal as a component of a plea agreement is valid and will be enforced if it was made voluntarily, knowingly and intelligently. State v. Murphy, 125 Idaho 456, 872 P.2d 719 (1994).

Pursuant to the plea agreement signed by Slaymaker, Slaymaker waived his right to appeal his sentence unless the district court exceeded the determinate portion of the state’s sentencing recommendation. (R., p.107.) This waiver was confirmed by both Slaymaker’s counsel and by the district court. (12/22/14 Tr., p.4, Ls.18-22, p.8, Ls.1-8.) Slaymaker made his plea voluntarily, knowingly and intelligently, as stated in the transcript of the entry of plea hearing. (12/22/2014 Tr., p.13, L. 21 – p.14, L.6.) At sentencing, the state requested the district court impose a unified sentence of 14 years, with five years fixed. (02/19/2015 Tr., p.24, Ls.12-21.) The district court subsequently imposed an aggregate unified sentence of 20 years, with four years fixed. (R., pp.152-

¹ Citations to the Record are to the electronic file “Supreme Court No. 43149 Randy N. Slaymaker Clerk’s Record.pdf.”

61.) Because the district court did not exceed the determinate portion of the state's sentencing recommendation, Slaymaker waived his right to appeal his sentence. As such, he cannot claim the district court abused its discretion by imposing an excessive sentence. To allow an appellate challenge in these circumstances would allow Slaymaker to evade the appeal waiver in his plea agreement. Because Slaymaker specifically waived his right to appeal his sentence, he cannot challenge his sentence on appeal and his appeal should be dismissed.

Conclusion

The state respectfully requests this Court to dismiss Slaymaker's appeal.

DATED this 21st day of October, 2015.

/s/
LORI A. FLEMING
Deputy Attorney General

CATHERINE MINYARD
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 21st day of October, 2015, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

JENNY C. SWINFORD
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/
LORI A. FLEMING
Deputy Attorney General